Key Points - Ruling on Summary Judgment

A. Ruled that the FDA **does not have the Authority** to regulate tobacco advertising and promotion.

B. Ruled that the FDA regulations which went into effect on February 28, 1997, prohibiting the sale of tobacco products to minors would **remain in effect** pending appeal.

C. **Let stand** FDA access restriction regulations and package label regulations, **but ruled that the FDA cannot implement** any regulations scheduled to go into effect on August 28, 1997 (*including access restrictions and package label regulations*) pending further order by the court.

D. **Cigarette manufacturers have filed a petition to appeal and expect that the FDA will also appeal shortly**. The appeals process could take years and ultimately may result in a trial on the issue of whether the FDA has jurisdiction over cigarettes as customarily marketed.

1 Access restrictions scheduled to go into effect on August 28, 1997, were defined as follows: *"The access restrictions ....prohibit the sale of tobacco products through vending machines and self-service displays except in facilities where individuals under the age of 18 are not permitted, prohibit distribution of free samples, and prohibit the sale of cigarette packages containing fewer than 20 cigarettes."*

51857 9187

Source: https://www.industrydocuments.ucsf.edu/docs/pfhn0000